



Number: D96-9

Serving the People of California

DIRECTIVE

Date: September 5, 1996

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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: POLICY AND PROCEDURES FOR SEA PROGRAM

EXECUTIVE SUMMARY:

Purpose:

This Directive provides State and federal policy and procedures for implementation of the Self-Employment Assistance (SEA) program as provided in Public Law 103-182.

Scope:

This Directive applies to all California Service Delivery Area (SDA) administrative entities who elect to operate a SEA program.

Effective Date:

This Directive is effective upon the issue date.

REFERENCES:

- Public Law 103-182
- Unemployment Insurance Code, Article 2.2, Section 1300-1308
- Unemployment Insurance Program Letter (UIPL) 14-94
- California State SEA Plan

STATE-IMPOSED REQUIREMENTS:

This directive contains State and federal requirements. State requirements are printed in ***bold, italic type***.

FILING INSTRUCTIONS:

Retain this Directive until further notice.

BACKGROUND:

Public Law 103-182, the North American Free Trade Agreement, permitted States to establish a self-employment program for candidates identified through the profiling system and to pay self-employment allowances in lieu of regular Unemployment Insurance (UI) benefits while participants are involved full time in starting a business and becoming self-employed. This federal legislation authorizes the SEA program through 1998. The California legislature passed conforming legislation which was subsequently approved by Governor Wilson September 28, 1994, and became law (UI Code Article 2.2, Section 1300-1308) effective January 1, 1995.

The Department of Labor (DOL) published UIPL Letter 14-94 (Attachment 1) which transmitted instructions for operating the SEA program. One of the requirements is for States to submit a State SEA plan to DOL for approval prior to implementing SEA operations. On April 8, 1996, California submitted a SEA State plan (Enclosure 2) to DOL and on July 23, 1996, DOL granted conditional approval through July 31, 1997. A final determination will be made once California submits additional information on the accuracy of the profiling model, the number of SDAs participating and the types of services provided to SEA participants.

The following are the goals of California's SEA program:

- To provide an additional strategy to reemploy dislocated workers who have been profiled as likely to exhaust their benefits.
- To provide aspiring entrepreneurs, who have been permanently separated from their previous occupation, with the tools and support to successfully establish their own businesses.
- To provide a positive solution to long term unemployment by stimulating economic development through the creation of new businesses.

Many SDAs have been operating entrepreneurial programs under Job Training Partnership Act (JTPA). The State has considered this in the design of the SEA program so that existing entrepreneurial training programs can easily be adapted to SEA. The main benefit to clients is that under an approved SEA program, they can continue receiving their UI benefits after they have started their businesses.

Since no federal funds were allocated to operate the SEA program, SDA participation in SEA will be voluntary and SDAs will be expected to use their local Title III resources.

POLICY AND PROCEDURES

I. SEA PROGRAM DESIGN

California's State SEA Plan is based on the SEA provision that, for some workers, access to a self-employment program would be the best path to quickly re-enter the work force. It provides another reemployment option that SDAs may offer profiled individuals. The SEA program is designed to reflect the potential for a maximum number of 26 allowable weeks of UI benefits. The enclosed State SEA Plan (Attachment 2) describes the specific program elements and timelines which would allow individuals to complete the SEA program within the allowable UI benefit period. It is intended that SDAs design their SEA programs to coincide with an individual's potential entitlement to regular UI benefits. Some individuals may require longer training and support in order to complete successfully. Therefore, this timeline is suggested and not required. It must be understood by program operators that an individual is entitled to regular UI only, extensions are not permitted.

As stated earlier, California's SEA program has been granted conditional approval through July 31, 1997. Therefore, all SEA participants must complete the program prior to that date. The SDAs should plan participant enrollments accordingly (i.e., no new enrollments after March 1, 1997). The Employment Development Department (EDD) will be submitting the additional information as requested by DOL and will seek continuation of the SEA program. When we receive extended approval beyond July 31, 1997, we will notify SDAs immediately.

In order to be eligible for the program, an individual must be receiving UI benefits and must have been selected through the Worker Profiling and Reemployment Services (WPRS) system. In accordance with UIPL 14-94, individuals engaged full time in approved self-employment activities will receive an SEA allowance in the same amount, at the same interval, on the same terms and subject to the same conditions as regular Unemployment Compensation. However, the individuals will be exempt from State requirements relating to availability for work, active search for work and refusal to accept work. Additionally, any income earned from self-employment must be reported but will not affect the individual's SEA allowance.

One of the requirements of Public Law 103-182 is that SEA allowances will not result in any additional benefit charges to the Unemployment Trust Fund. ***In order to provide this assurance, California has established a threshold of .6400 probability value for the SEA program. This means that only profiled individuals with a probability score of greater than .6400 will be selected for the SEA program.*** For some SDAs, this may limit the number of profiled individuals eligible for the SEA program. In order to assist SDAs in planning their SEA programs, EDD's Project Management Division has provided some estimates of the number of profiled individuals that could potentially be eligible for the program (Attachment 3). Please note that these estimates are at a point in time for a three month period and will change based on the number of claimants filing UI claims.

The SDAs will be required to submit a letter of intent to operate SEA accompanied by a SEA Plan. Further instructions regarding the SEA Plan are included in Section II of this Directive. Once the SDA has received approval from the Job Training Partnership Division (JTPD), SEA implementation can begin.

One of the first steps in operating SEA will require SDAs to enter into a Memorandum of Understanding (MOU) with the local EDD Office for coordination with the WPRS system. If there is an existing MOU, SDAs will only need to modify this agreement to include SEA. The profiling MOU has been revised to include SEA and a copy is enclosed (Enclosure 4).

The following steps list the specific program elements that will be required in operating an SEA program:

A. SELECTION PROCESS, SEA ORIENTATION AND SCREENING

As described in the Profiling/SEA MOU, the SDA will provide the EDD field office with schedule parameters including dates, times and number of slots to be filled for the SEA orientation workshop. The SEA invitational letter (Enclosure 2, Attachment C), generated by the WPRS system, will be mailed to claimants two weeks prior to the SEA orientation workshop. This letter states that attendance is voluntary and the orientation workshop is for those individuals who have a clear business idea that they believe could lead to full time self-employment. The number of SEA orientation workshops will be determined locally based on available resources. The SEA program is not for everyone and many individuals who receive the invitational letter will not attend the workshop. The SDAs may find it necessary to experiment with the number scheduled to receive a letter in order to determine an initial drop out rate.

The SEA orientation workshop, conducted by the SDA or their designated service provider, must provide, at minimum, the following information:

- responsibilities and risks of being self-employed;***
- the requirements of the SEA program (including UI responsibilities);***
- a review of the SEA program components (entrepreneurial training, business counseling and technical assistance) and required benchmarks; and***
- a review of the application process.***

An example of a SEA orientation workshop outline is included in the enclosed SEA State Plan (Enclosure 2) Attachment D, page 21. The SDAs may design their own orientation workshop; however, it must contain the elements described above.

Clients attending the SEA orientation workshop must complete a SEA application. An example of a SEA application is contained in the enclosed SEA State Plan (Attachment 2), Attachment E, page 23. The SDAs are allowed the flexibility to design or use an existing application, as long as it contains the basic elements in the example provided. However, to assure that an individual is informed of his/her rights and responsibilities while participating in the SEA program, all participants must sign the SEA Informed Consent Agreement, JTPA (form number). A copy of the JTPA (form number) is enclosed (Enclosure 5) and SDAs will be required to maintain this signed agreement in the participant's file.

After the SEA orientation workshop, claimants will return their applications to the SDA within a specified time period that is determined locally. During that time, claimants will be required to meet all UI requirements until they are officially accepted and enrolled into the SEA program.

As described in the SEA State Plan, screening of applicants involves three stages. The first two stages, SEA orientation workshop and application filing, are designed so that many applicants will self select out of the program because of the many risks involved in self-employment. The third stage, designed by the SDA, will further screen applicants to ensure that individuals who are enrolled are the most appropriate candidates for the SEA program. The SDAs will be asked to describe this third stage in their SEA plan. This could include the reviewing of applications by a review panel, structured interviews or written assessment. At minimum, the SEA participant application must be screened for the following elements:

- The SEA participant's prior employer is not the primary user of the new business.***
- The business idea is specific.***
- The business idea is likely to meet legal requirements.***
- The business idea is suitable for public funding and does not involve gambling, multi-level marketing, pyramid-selling, speculative purchase and/or sale of real estate.***
- The business is a year round, full time venture.***
- The business will operate in California and the SEA participant is a California resident.***
- The application is complete.***

B. ENROLLMENT IN SEA AND UI CERTIFICATION PROCESS

Once the claimant has been approved by the SDA and enrolled in the appropriate JTPA program, the SDA must notify EDD's Northern California

Authorization Center (NORCAL). The NORCAL will act as the single point of contact for payment of SEA allowances. The following are the procedures for SDA notification to NORCAL and the UI certification process.

- **The SDA completes the JTPA Referral/Enrollment form (JTA 2 EEF) and faxes a copy to NORCAL at (916) 255-1408 .**
- **The NORCAL processes the SEA payments.**
- **During SEA orientation, the SDA will provide the claimant with an information form explaining the UI certification process. This form is currently under development by UI Division and will be issued under separate cover. The certification process will require the JTPA approved training provider to sign the Continued Claim Form (DE 4581) in Part C. This verifies the claimant's continuing eligibility for SEA.**
- **The claimant mails the Continued Claim Form (DE 4581) to the NORCAL and is paid SEA allowances for as long he/she is in the SEA program and has available SEA allowances which are equal to the maximum benefits available on the regular UI claim.**

C. REQUIRED SEA SERVICES

As required by UIPL 14-94, the following SEA activities must be offered to all SEA participants: Entrepreneurial Training, Business Counseling, and Technical Assistance. **These three SEA activities, as defined below, are an allowable Title III retraining cost:**

- **Entrepreneurial Training, when defined as classroom training on how to develop and operate a business. Examples of this include instruction in; business accounting, business plan development, marketing, financing, or government regulations.**
- **Business Counseling, when defined as individual counseling services to assist in developing and operating a business. Examples of this include individual counseling on developing a business plan, obtaining financing, or feasibility study.**
- **Technical Assistance, when defined as individual assistance in solving specific problems related to business development and operation. Examples include locating a business site, identifying equipment needs, or obtaining licensing.**

In order to ensure that the three required SEA activities described above (Entrepreneurial Training, Business Counseling and Technical Assistance)

are offered to all SEA participants, the State SEA Plan requires all SEA participants to complete the following four benchmarks:

1. Five core Entrepreneurial Training requirements to include:

- a. Developing a business plan;**
- b. Developing marketing strategies;**
- c. Establishing a basic accounting system;**
- d. Financing the business; and**
- e. Providing information about government regulations including, permits, licenses, and tax.**

Each SEA participant must have a minimum of 20 hours of Entrepreneurial Training. The above training requirements may be waived if the participant can demonstrate proficiency in the subject matter. However, other optional SEA training activities must be used to fulfill the minimum 20 hours of training such as personal development, business automation or management skills.

2. Two individual one-on-one business counseling sessions with a SDA approved business counselor.

3. A completed individualized business plan.

An example of an individualized business plan is including in Enclosure 2, Attachment G, page 34.

4. Completed progress reports at designated intervals.

The SDAs will be required to monitor the participants progress throughout the program. A description of how this will be accomplished will be required in the SDA SEA plan.

D. BUSINESS START UP

Because SEA is geared toward “fast track, highly motivated individuals”, many participants may actually begin their business while completing the required benchmarks described above. Once the business starts the participants may continue to collect any remaining SEA benefits while engaging in business activities. Business income must be reported by the participant on the Continued Claim Form DE 4581 but will not reduce the SEA benefit. Additionally, if the SEA participant has started their business, they may continue to be enrolled in JTPA until completion of the required benchmarks described above and/or they have meet the definition of a self employment placement described in this Directive under Section I.E. Completion and Follow-up.

E. COMPLETION AND FOLLOW-UP

For purposes of the JTPA program, completion and placement in self employment will occur when the participant has:

Met all required benchmarks described in this directive under Item I. C. and

1. Completed two of the following items:

- Application for a business license (if applicable) or other permit (where applicable) enabling participant to operate a business in a desired location;***
- Application and establishment of a business bank account;***
- Application for a Franchise Tax Board Resale Permit; or***
- Application for a Fictitious Business Name Statement.***

As prescribed in JTPA 314 (c) (15), the SEA participant can receive supportive services for a maximum of 90 days after the participant has completed other services. Counseling necessary to assist participants to retain employment shall terminate not later than six months following the completion of training. Costs for these services are allowable basic readjustment services.

Once the participant completes the SEA program and is terminated from JTPA, the SDA needs to notify the NORCAL office. The procedures for notifying NORCAL are to complete a "JTPA Status Change, Termination of Active Enrollment", JTA 3 ESF, and FAX a copy to NORCAL at (916) 255-1408.

F. PARTICIPANT TERMINATION PRIOR TO COMPLETION

Individuals may choose to drop out of the SEA program at any time or they may be terminated from the program for failure to comply with program requirements. Once an individual has been terminated from the SEA program and they have any remaining UI benefits, they will be subject to the regular UI requirements. The following are the procedures for notifying NORCAL for voluntary or involuntary terminations.

- VOLUNTARY TERMINATION - When an individual terminates from SEA voluntarily, they will need to complete a participant withdrawal form. An example of this form is contained in Enclosure 2, Attachment H, page 37. The SDAs may design their own participant withdrawal form but it must contain the elements provided in this example. The SDAs***

must also notify the NORCAL office by faxing a copy of the participant withdrawal form to (916) 255-1408.

- ***INVOLUNTARY TERMINATION - When an individual terminates from SEA involuntarily, the SDA will need to complete a "JTPA Status Change, Termination of Active Enrollment", JTA 3 ESF, and FAX a copy to NORCAL at (916) 255-1408.***

II. SDA SEA PLAN AND LETTER OF INTENT TO OPERATE SEA

As Stated earlier in this Directive, SDAs will be required to submit a letter of intent to operate SEA accompanied by an SEA Plan to their assigned Program Manager. Enclosure 6 is a copy the SEA Plan that SDAs must complete and submit with their letter. The items contained in the SEA plan are either self explanatory or have explanations and definitions that are described in this Directive. Therefore, line item instructions are not provided. If you need technical assistance in completing the SEA plan, please contact your Program Manager or Lynora Sisk at (916) 654-7854.

Your SEA plan will be reviewed by the Program Manager to assure that all the required elements for operating SEA are contained in the plan. The SDAs will be notified in writing of approval to operate SEA.

III. REPORTING REQUIREMENTS

Public Law 103-182, which authorizes the development of SEA programs, requires that certain information be reported annually to DOL so that an evaluation report of the SEA program can be submitted to Congress. The JTPD is developing a standardized SEA program report which will be required for all SDAs who are approved to operate an SEA program. In order to provide SDAs with information on what type of reporting requirements are associated with SEA, a draft copy of this report is enclosed in Enclosure 7. The final SEA reporting instructions will be issued under separate cover.

Additionally, the DOL is requiring that the State collect annual information on program outcomes such as number of businesses started, number of participants receiving loans, business income. This information could be collected through a survey of the SEA participants who have completed the program. The JTPD is researching options of administering the survey at the State level.

ACTION:

1. Bring this Directive to the attention of appropriate staff.
2. Determine if the SEA program is appropriate for your SDA and, if so, submit a letter of intent and a completed SEA plan to your assigned program manager no later than September 13, 1996.

INQUIRIES:

The SDAs should direct inquiries about this Directive to Lynora Sisk, Program Management Section, at (916) 654-7854 or your assigned Program Manager. The EDD offices should direct inquiries to Barbara Wright at (916) 654-9308 or Nelson Lucas at (916) 653-8432.

/S/ VICKI J. JOHNSRUD
Acting Chief

Attachments are not available online. To obtain a copy e-mail JTPD at **JTPDLIB@EDD.CA.GOV** or contact Jim Scholl at (916) 657-4610.

1. Department of Labor Unemployment Insurance Program Letter No. 14-94 (Attachment 1)
2. California Self-Employment Assistance State Plan (Attachment 2)
3. Estimate of SEA Clients in profiling pool (Attachment 3)
4. Sample Memorandum of Understanding Profiling and Reemployment Services System and Self-Employment Assistance (SEA) Program (Attachment 4)
5. Self-Employment Assistance Program Participant Informed Consent Agreement (Attachment 5)
6. Service Delivery Area Self-Employment Assistance Plan (Attachment 6)
7. Self-Employment Assistance Quarterly\Annual Report (Attachment 7)